

**United States Department of Labor
Employees' Compensation Appeals Board**

<hr/>)	
S.W., Appellant)	
)	
and)	Docket No. 23-0923
)	Issued: October 17, 2024
DEPARTMENT OF VETERANS AFFAIRS,)	
JOHN J. PERSHING VA MEDICAL CENTER,)	
Poplar Bluff, MO, Employer)	
<hr/>)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER DISMISSING APPEAL

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

On May 31, 2023 appellant filed a timely appeal from a May 17, 2023 decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 23-0923.

The Board, having duly considered this matter, notes that the Board and OWCP may not simultaneously exercise jurisdiction over the same issue(s) in a case on appeal.¹ By the May 17, 2023 decision, OWCP denied appellant's April 26, 2023 request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error. However, on March 8, 2022, appellant had filed an appeal with the Board from a March 3, 2022 decision, regarding the same underlying merit issue, to which the Clerk of the Appellate Boards assigned Docket No. 22-0565. As the same underlying issue of whether appellant had established a compensable

¹ 20 C.F.R. §§ 501.2(c)(3), 10.626; *Douglas E. Billings*, 41 ECAB 880 (1990). See also *Order Dismissing Appeal, M.B.*, Docket No. 23-0750 (issued July 20, 2023); *Order Dismissing Appeal, A.J.*, Docket No. 22-1336 (issued May 15, 2023); *Order Dismissing Appeal, M.H.*, Docket No. 22-0880 (issued November 4, 2022).

employment factor was pending before the Board in Docket No. 22-0565 when OWCP issued its May 17, 2023 decision, OWCP's May 17, 2023 decision is null and void.²

As OWCP's May 17, 2023 decision is null and void, there is no final adverse decision issued by OWCP over which the Board may properly exercise jurisdiction. The Board, therefore, concludes that the appeal docketed as No. 23-0923 must be dismissed. Accordingly,

IT IS HEREBY ORDERED THAT Docket No. 23-0923 is dismissed.

Issued: October 17, 2024
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

² *Id.*; see also *G.W.*, Docket No. 19-0260 (issued July 10, 2020); *Cathy B. Millin*, 51 ECAB 331 (2000).